



BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF  
THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

INTERNATIONAL FORM

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3  
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2

To: (Name and Address of Depositor or Attorney)

S. Leslie Misrock, Esq.  
Pennie & Edmonds  
1155 Avenue of the Americas  
New York, NY 10036

Deposited on Behalf of: Cytogen Corporation (Docket 1101-086)

Identification Reference by Depositor:

ATCC Designation

Hybridoma, 7E11C

HB 10494

The deposit was accompanied by: \_\_\_\_ a scientific description \_\_\_\_ a proposed taxonomic description indicated above.

The deposit was received June 29, 1990 by this International Depository Authority and has been accepted.

AT YOUR REQUEST:

X We will inform you of requests for the strain for 30 years.

The strain will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strain.

If the culture should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace it with living culture of the same.

The strain will be maintained for a period of at least 30 years after the date of deposit, and for a period of at least five years after the most recent request for a sample. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the culture cited above was tested July 6, 1990. On that date, the culture was viable.

International Depository Authority: American Type Culture Collection, Rockville, Md. 20852 USA

Signature of person having authority to represent ATCC:

Bobbie A. Brandon  
Bobbie A. Brandon, Head, ATCC Patent Depository

Date: July 6, 1990

Form BP4/9

# PENNIE & EDMONDS

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NEW YORK, NY 10036-2711

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VIA FEDERAL EXPRESS

June 28, 1990

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CLAIRE M. SCHULTZ  
JAMES P. WILLIAMS  
DARREN W. SAUNDERS  
ANNELIESE M. SCHAEFER  
THOMAS ROWAN  
WILMA F. TRIEBWASSER

\*NOT ADMITTED IN NEW YORK

JOHN G. PENNIE  
(1958-1991)

DEAN S. EDMONDS  
(1979-1972)

1101-086

Mr. Charles K. Mills  
Head, Applied Sciences and Workshops  
American Type Culture Collection  
12301 Parklawn Drive  
Rockville, Maryland 20852

Re: SD #1307, CYT-351 Culture Material

Dear Mr. Mills:

Per the request of Cytogen Corporation, we wish to cancel the Safe Deposit of cell line 7E11C5 (CYT-351), SD #1307 and transfer this cell line to the ATCC patent depository.

I have notified Bobbie A. Brandon about this matter and will forward the appropriate forms and fees to her attention.

Thank you in advance for your assistance.

Yours truly,

*S. Leslie Misrock*  
S. Leslie Misrock  
by *Lauren*  
no. 30742

PIB:ds

cc: Geraldine F. Baldwin, Ph.D  
Ms. Ursula Treves

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VIA FEDERAL EXPRESS

June 28, 1990

JOHN G. PENNIE  
(1856-1921)

DEAN S. EDMONDS  
(1879-1972)

1101-086

Mrs. Bobbie A. Brandon  
American Type Culture Collection  
12301 Parklawn Drive  
Rockville, Maryland 20852

Re: SD #1307, CYT-351  
Horosziewicz Cell Line 7E11C5

Dear Mrs. Brandon:

Enclosed is the completed form required for Patent Purposes to Meet the Requirements of the Budapest Treaty on The International Recognition of The Deposit of Microorganisms for the Purposes of Patent Procedure.

This is a request for a conversion of an ATCC Safe Deposited cell line to the ATCC Patent depository. I have notified Charles K. Mills about this matter.

<u>Organism Type</u>	<u>Strain Designation</u>	<u>ATCC NO.</u>
Cell line	7E11C5	CYT-351/SD#1307 <i>new ATCC no</i> <i>11/3-19494</i> <i>6/29/90</i>

Enclosed is a check for \$970.00 to cover the one-time fee of deposit of this culture.

We would like to have the following statement included in your letter which advises us of the ATCC accession number assigned to these strains:

"Furthermore, insofar as is practicable in carrying out the business of the American Type Culture Collection, we shall refrain from distributing progeny of this strain pending the issuance of the U.S. Patent to your

ALLAN A. FANTUCCI  
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\*NOT ADMITTED IN NEW YORK

COUNSEL  
THOMAS F. REDDY, JR.

OF COUNSEL  
SHIRO KASHIWA

Mrs. Bobbie A. Brandon  
June 28, 1990  
Page 2

company, with the exceptions, however, that:  
(1) access to progeny of this strain by other parties will be granted upon receipt of written authorization from your company specifying the name and the American Type Culture Collection (ATCC), designation (ATCC-number) of the strain and identifying the party who is to receive it. (Restricted distribution); and (2) with reference to 886 O.G. 638, progeny of this strain will be available during pendency of the patent application to one determined by the Commissioner of Patents to be entitled thereto under 37 C.F.R. 1.14 of the Rules of Practice in Patent Cases and 35 U.S.C. 122. All restrictions on the availability of progeny of the strain to the public will be irrevocably removed upon the granting of the patent(s) of which the strains are the subject. The strains will be maintained for a period of at least five years after the most recent request for the furnishing of a sample of the deposited microorganism was received by the American Type Culture Collection and, in any case, for a period of at least 30 years after the date of the deposit. During this period all care necessary shall be taken to keep this strain viable and uncontaminated."

After you have assigned the ATCC accession number, please telephone Peter Bernstein collect at 212/790-9090 to inform him so we can incorporate it into the patent application.

We greatly appreciate your cooperation in this matter.

Sincerely,

*S. Leslie Misrock* / *by Luma*  
*Concgr*  
*Reg No 3074*  
S. Leslie Misrock

SLM:ds

Enclosures

cc: Dr. Geraldine F. Baldwin  
Ms. Ursula Treves

In addition to those entitled to a sample under the Budapest Treaty, do you wish the strain made available to (Those entitled to a sample under the European Patent Convention and countries signatory to the Budapest Treaty will receive samples.):

Anyone who requests a culture (no restrictions on distribution from date of deposit or conversion to Budapest)?

No

Other countries which are not signatory to the Budapest Treaty? Please state which countries: \_\_\_\_\_

None.

After a U.S. Patent issues, the ATCC makes the culture available to anyone who requests it.

Do you wish the ATCC to inform you of all requests for this strain? (This is allowed under the Treaty, but if you waive the right, the fee is reduced.) Yes.

Would you like to be notified via telex or telephone of the ATCC number assigned to your strain (Fee: \$10.)? Yes.

Telex No. \_\_\_\_\_ Telephone No. \_\_\_\_\_

Viability testing certificate and contracts should be directed to:

S. Leslie Misrock, Esq.  
1155 Avenue of the Americas  
Pennie & Edmonds  
New York, N.Y. 10036

Check in payment of service must accompany the deposit unless prior arrangements are made and approved. If arrangements have been made to bill you for services, an invoice should be sent to:

Name and address of attorney (to whom information will be made available if you complete): \_\_\_\_\_

Additional comments: \_\_\_\_\_

*I understand and agree that the deposit may not be withdrawn by me for the period specified in Rule 9.1 of the Budapest Treaty (at least 30 years after the date of deposit), and that if a strain should die or be destroyed during the life of the patent, or the period of time so specified, it is my responsibility to replace it with a living culture of the same organism or cell. In the cases of viruses, cell cultures, plasmids and seeds, it is my responsibility to supply a sufficient quantity for distribution for the period of time specified above.*

DATE 6/28/90 SIGNATURE OF DEPOSITOR S. Leslie Misrock *by Laura*  
by Laura  
30742

Cytogen Corporation

S. Leslie Misrock, Esq.

On behalf of (Name of company or institution if signed on their behalf)

(Typed name of Depositor)

(must be completed)  
 600 College Road East  
 Princeton, N.J. 08540

Address: Pennie & Edmonds  
1155 Avenue of the Americas  
New York, N.Y. 10036

THIS FORM MUST BE COMPLETED IN ENGLISH

ADDRESS SHIPMENTS AND FORM TO THE ATTENTION OF:

Mrs. Bobbie A. Brandon  
 American Type Culture Collection  
 12301 Parklawn Drive  
 Rockville, Maryland 20852 USA



Best Available Copy  
Budapest Treaty Deposits

# American Type Culture Collection

12301 Parklawn Drive • Rockville, MD 20852 USA • Telephone: (301)881-2600 Telex: 898-055 ATCCNORTH

TO DEPOSIT OR TO CONVERT A DEPOSIT TO MEET THE REQUIREMENTS OF  
BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE  
DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

Name of deposit (microorganism, cell, seed, plasmid, etc.) Hybridoma

Strain designation given by the depositor (number, symbols, etc.) 7E11C5

Is this an original deposit under the Budapest Treaty? Yes

Is this a request for a conversion of a deposit already at the ATCC to meet the requirements of the Budapest Treaty? (If so, indicate ATCC designation.) Yes CYT-351; ATCC SD#1307

Is this deposit a mixture of microorganisms or cells? No

Details and conditions necessary for the cultivation of the strain, for its storage and for testing its viability and also, where a mixture of microorganisms is deposited, descriptions of the components of the mixture and at least one of the methods permitting the checking of their presence. RPMI 1640, 10% Fetal Bovine Serum-Penicillin and Streptomycin.

7. An indication of the properties of the strain which are or may be dangerous to health or the environment, or an indication that the depositor is not aware of such properties. Not aware of any such properties.

8. It is recommended that sufficient description be provided to allow the ATCC to confirm that the strain deposited generally conforms to that which the depositor states is being deposited (i.e., Gram negative rod).

a. For cell culture deposits please complete. Is the cell being cultured in the presence of antibiotics (if so list the antibiotics)

b. For hybridoma deposits please complete. What is the isotype of antibody produced? No.

9. Is this strain zoopathogenic? No. phytopathogenic? No.

10. Does this strain contain plasmids relevant to the patent process? No.  
If so, what physical containment level is required for experiments as described in the National Institutes of Health Guidelines involving Recombinant DNA Molecules (i.e., P1, P2, P3 and P4 facility)?

\*The answers to these questions are recommended but not required.

FOR ATCC USE ONLY

ATCC DESIGNATION

DATE CULTURE RECEIVED

DATE VIABILITY TEST COMPLETED